



# State Administration, Public Retirement, and Veterans' Affairs Interim Committee

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## 56th Montana Legislature

### SENATE MEMBERS

SUE BARTLETT, VICE-CHAIR  
E.P. "PETE" EKEGREN  
DON HARGROVE  
GLENN A. ROUSH

### HOUSE MEMBERS

MATT BRAINARD, CHAIRMAN  
EDITH J. CLARK  
TOM DELL  
CAROL WILLIAMS

### COMMITTEE STAFF

SHERI HEFFELFINGER  
RESEARCH ANALYST  
JOHN MacMASTER, ATTORNEY  
DAVID NISS, ATTORNEY  
JOANN JONES, SECRETARY

## MINUTES

August 4, 2000  
Capitol Building  
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

### COMMITTEE MEMBERS PRESENT

Rep. Matt Brainard, Chairman  
Sen. Sue Bartlett, Vice Chair

Sen. E.P. "Pete" Ekegren  
Sen. Don Hargrove  
Sen. Glenn A. Roush

Rep. Edith J. Clark  
Rep. Tom Dell

### COMMITTEE MEMBERS EXCUSED

Rep. Carol Williams

### STAFF PRESENT

Sheri Heffelfinger, Research Analyst  
Jo Ann Jones, Secretary

### VISITORS

Visitors' list, Attachment #1.

### **CALL TO ORDER AND ROLL CALL**

Rep. Brainard called the meeting to order at 8:05 a.m. Roll call was noted, see Attachment #2. Sen. Bartlett moved adoption of the minutes as amended. The motion passed on unanimous voice vote.

### **PROGRESS REPORT ON DC PLAN IMPLEMENTATION**

**Exhibit #1: MPERA Retiree News, August 2000**

**Exhibit #2: Update on DC Plan Implementation, 8/2/2000**

Mike O'Connor, Executive Director, Public Employees Retirement Board (PERB), presented Exhibit #1 as an item of interest for the Committee members. Exhibit #2 indicates that the top scoring offerors for DC plan services of administration were Great-West Life & Annuity Insurance Company for administration and recordkeeping, and Pacific Investment Management Company for stable value investment product. Preliminary selection of variable (mutual fund) investment products has been completed. No contract award has been made for the educational component.

Rep. Dell asked if there are difficulties in finding an education vendor since one of the two respondents has withdrawn. Mr. O'Connor said the consultant had warned them that there aren't many vendors who specialize in education, so the difficulties were not unexpected. He said the education component was structured in modules to provide flexibility.

Rep. Brainard asked if there will be savings derived from combining the administration of the 401(a) and the 457 plans. Mr. O'Connor said the savings in cost per participant will be approximately \$20, which resulted in response to a request for their best and final offer to combine those elements.

### **INTRODUCTION TO RETIREMENT PROPOSALS HEARING**

**Exhibit #3: Retirement Plan Proposals Submitted for Review (Summary)**

**Exhibit #4: Individual Retirement Proposals, Numbers 1 through 27**

## **Exhibit #5: Benefit Eligibility and Basic Benefit Formula**

Sheri Heffelfinger, Research Analyst, discussed Exhibits #3 (a listing of each retirement proposal and a summary of its intention), #4, and #5 (Benefit Eligibility and Basic Benefit Formula based on the MCA, Disability Benefits, Retiree and Benefit Recipient Data, Membership Data, Contributions/Costs/Actuarial Data, and Investment Data).

PROPOSAL #1: A through D; Increase GABA, by the Association of MT Retired Public Employees

Speaking as a proponent of the proposal:

Steve Kologi, President, Association of MT Retired Public Employees (AMPRE), who said Proposal A made the GABA the same as the Social Security COLA increase, Proposal B would increase the GABA to 3%, Proposal C would be a \$50 per month one-time increase for pre-January 1, 1981, retirees, and Proposal D would reduce the waiting period from 3 to 2 years.

Sen. Bartlett asked if the proposals were ranked according to preference. Mr. Kologi said Proposals A and B were essentially alternatives of the same proposal and were the most important.

PROPOSAL #2: Biennial adjustment of GABA to a maximum of 2.5% by MT Retired Teachers

Speaking as proponents for Proposal #2:

Charlotte Thomas, Montana Retired Teachers; David Senn, Executive Director, Teachers Retirement System (TRS); Diane Huber, Montana Retired Teachers and School Personnel Association; Glen Leavitt, Director of Benefits, Montana University System; Tom Bilodeau, MEA-MFT

Rep. Brainard asked Mr. Senn for further comment on the TRS Board's ability to increase the GABA according to unfunded liability. Mr. Senn said the intention is for a small increase every biennium, capping out at 2.5%. Rep. Brainard asked if the Board would also have the latitude to freeze the GABA. Mr. Senn said that was not contemplated in

the proposal. He said that what is desired is that adjustments made by the Board will be guaranteed from that point forward. Rep. Brainard asked how the Board would retreat from its position if the GABA became actuarially unsound. Mr. Senn said the Legislature would then be approached for an increase in the contribution rate.

PROPOSAL #3: Increase GABA to 2.5% by the MPEA

Speaking in support of Proposal #3: Tom Schneider, Montana Public Employees Association (MPEA); Mike O'Connor; Tom Bilodeau; Glen Leavitt

Sen. Bartlett asked Mr. O'Connor if the federal tax code speaks to pre-tax payments for medical expenses. Mr. O'Connor said the only pre-tax method that he knows of is the VEBA. Sen. Bartlett directed the same question to Mr. Schneider. Mr. Schneider said there is no federal legislation pending now that would so change the tax code, and said that medical savings plans don't help those who are already retired. Sen. Bartlett said the only current way to assist retirees would be a tax credit for premiums.

PROPOSAL #4: Increase GABA to 2.5% by the MEA

Speaking in support of Proposal #4: Tom Bilodeau, MEA-MFT; Verner Bertelsen, Montana Senior Citizens Association

PROPOSAL #5: TRS Board to increase GABA as funding allows, capping at 2.5% by the MEA

Speaking in support of Proposal #5: Tom Bilodeau, MEA-MFT; David Senn, TRS

Sen. Bartlett asked Mr. Bilodeau if Proposal #4 would be a single move to a 2.5% GABA while Proposal #5 is a gradual move to the same end. Mr. Bilodeau replied that was the essential difference between the two proposals.

Sen. Bartlett said one concern about proposals specific to PERS is that if the next legislature would approve any of them, which would increase unfunded liability, how

would that affect the plan choice rate for the DC plan when it is implemented. She said that question may not be answered by September, but it is something to keep in mind.

Rep. Dell asked Mr. O'Connor to respond to Sen. Bartlett's comment. Mr. O'Connor said that any time the benefit structure is changed, unfunded liability is created and normal cost is increased. The nature of the benefit determines the amount of unfunded liability. Until the valuation is determined, it is unknown how much unfunded liability will be created.

Ms. Heffelfinger said that the law states that the DB plan in effect on the date that the DC plan takes effect (the latest is July 1, 2002) is the DB plan used when determining the plan choice rate to be paid from the DC plan to the DB plan. Furthermore, future changes to the DB plan would also affect future plan choice decisions. Thus, the Board's actuary may take those changes into account when determining the sufficiency of the plan choice rate in the future.

PROPOSAL #6: Optional PERS participation for Supreme Court law clerks by Jack Guipre  
Explaining the proposal for Mr. Guipre was Sen. Bartlett

Mr. O'Connor said the issue arose because several law clerks wanted to purchase the time that they served at the Court. Since law clerks are state employees and, although they have a year-to-year contract, most serve longer than just one year. He said the expansion of optional membership to anyone who has a contract with the state could jeopardize the integrity of the entire plan, and the IRS takes a very dim view of optional membership.

Rep. Brainard asked how many law clerks serve at the Court, and what is their average length of service. Mr. O'Connor said there are 25-30 law clerks now and commented that the PERB's new attorney served there for four or five years. He said he does not know how many PERS members may be on term contracts with the state.

Sen. Hargrove asked if there might be some clerks on term contracts who are not participating. Mr. O'Connor said the Court was informed that the participation of law clerks is mandatory so their contributions were caught up. Sen. Hargrove asked if there is potential for litigation. Mr. O'Connor said it happens all the time when someone realizes that they should have been in the system and aren't. The employer has to pay up all contributions, plus interest, for the period of time that the employee should have been enrolled and wasn't.

Sen. Ekegren asked if that applied to local governments, too, and asked if the employee doesn't have to take some responsibility for not being in the system. Mr. O'Connor said it's the responsibility of the employer to ensure that the employee is enrolled. Usually the employer will turn around and collect from the employee the employee's share of the contributions.

Sen. Bartlett said it's the legal responsibility of the employer to enroll an employee in the system and to deduct the employee's contribution from wages.

Rep. Dell said that law clerks have the alternative to roll over their contributions into an IRA if he or she leaves the Court and the PERS system entirely.

PROPOSAL #7: Allow dispatchers in PERS to move to a 20-year plan by Sen. Christiaens  
Presenting the proposal for Sen. Christiaens and Lloyola Sisk was Ms. Heffelfinger

PROPOSAL #8: New members of the Air NG at the Great Falls Airport in FURS by the GTF  
Airport Fire Department and the Air National Guard  
Speaking in support of the Proposal #8: Roger Hagan, GTF Firemen's Association and  
Erick Gilbert, President, Local No. 3261

PROPOSAL #9: Companion proposal to #8 by the same as Proposal #9  
Mr. Hagan also spoke in support of Proposal #9, as did Mr. Gilbert, and Jim Dixon,  
Fitness Monitor, Great Falls Airport Firefighters

Rep. Brainard asked Mr. Hagan if the Great Falls airport firefighters are in the National Guard. Mr. Hagan said they are employees of the Department of Military Affairs and are no longer required to be members of the Air National Guard. Rep. Brainard asked if social security is withheld from their paychecks. Mr. Hagan said that it is. Rep. Brainard asked Mr. Gilbert how many reserves must be retained at the airport while supporting local fire departments. Mr. Gilbert said a normal shift consists of six firefighters, with three retained at the airport at all times. Because of the recent fires, firefighters are working extra shifts. Rep. Brainard asked if the Airport Authority is self-insured or if it purchases insurance. Mr. Hagan said he did not know but he would find out and report back.

Rep. Dell asked how many of the firefighters are currently 60 years old or older. Mr. Hagan said one is age 60, and there are five who are age 50 to 59. Rep. Dell asked about fitness requirements. Mr. Dixon said that all firefighters are required to take a fitness test annually. He said the biggest killer of firefighters is heart attack because the ones who are not actively fighting fire are usually the chiefs and assistant chiefs. They are usually the chiefs and assistant chiefs and are usually the older members of the department. Since they are the ones who are actively fighting the fire, they are the ones who are relied upon to effect the rescue of the firefighters who may encounter injury.

Sen. Bartlett asked Mr. O'Connor if the firefighters switched to FURS, would they have to be vested before they receive disability or death benefits. Mr. O'Connor said no, they are covered for half of salary from the point of enrollment.

PROPOSAL #10: Allow all firefighters to transfer to FURS from PERS

Scheduled to speak in support of Proposal #10: Keith Kober, Lockwood Rural Fire District (not present)

Ms. Heffelfinger said Proposal #10 is the same one that was offered last session. She said that firefighters for rural fire districts are not now covered by FURS.

PROPOSAL #11: Redefine detention officers as public safety officers by Sheriffs and Peace Officers Association

Speaking in support of Proposal #11: Kathy McGowan, Montana Sheriffs and Peace Officers Association

Sen. Roush asked Ms. McGowan if dispatchers had ever expressed interest in participating in SRS. McGowan said no dispatchers have expressed interest, to her knowledge.

PROPOSAL #12: Increase benefit formula in GWPORS from 2% to 2.5% by MPEA and the Game Wardens' Association

Speaking in support of Proposal #12: Roger Hagan; Mark Anderson, Jim Heck and Mick Chesterfield, all actively employed game wardens

PROPOSAL #13: Reduce eligibility for full retirement from 30 years to 25 years by MPEA

Speaking in support of Proposal #13: Tom Schneider, MPEA

PROPOSAL #14: Allow fire relief association board of trustees to set pension amounts

The presenter was Ms. Heffelfinger for Rep. Lawson

Rep. Brainard said this issue arose before and it was determined that it was not desirable for the local trustee board to assume this responsibility over and above their regular responsibilities. Mr. O'Connor said there are two types of volunteer firemen: those in rural districts and those in incorporated areas. He said Rep. Lawson is interested in the volunteer firemen in incorporated areas and there aren't very many of them in Montana.

PROPOSAL #15: Increase employer contribution in TRS by MEA-MFT

Speaking in support of Proposal #15: Tom Bilodeau, MEA-MFT and David Senn, TRS

PROPOSAL #16: Create a Deferred Retirement Option Plan (DROP) for MPORS



Explaining the proposal, although not as proponents: Tim Shanks, Montana Police Protective Association (MPPA) and Jerry Williams, MPPA

Ms. Heffelfinger said a DROP plan is like a DC plan because the members directs the investments and it occurs the last five years of the member's working career. The member's retirement allowance is deposited to the DROP Account instead of paid directly to the member.

Sen. Bartlett asked about how this would affect implementation of a GABA. Mr. Shanks said the GABA continues to operate normally. Sen. Bartlett asked about the disadvantages to a DROP. Mr. Shanks said there are no disadvantages to the system, but rather to an individual who makes a bad decision.

Rep. Brainard asked if DROP contributions are tax deferred. Mr. O'Connor said he was not sure, but would think that they are.

Rep. Dell said he believes the education component to be critical to a plan's success, and asked about acquiring a vendor. Mr. O'Connor said it would be similar to implementing a whole new DC plan.

PROPOSAL #17: Provide a "back drop" benefit option in TRS by the TRS Board  
Speaking in support of Proposal #17: David Senn, TRS

Sen. Bartlett asked if the lump sum payment is up front, followed by a monthly benefit. Mr. Senn said that was correct.

Rep. Dell said he was surprised at the lump sum option because it strays from the DB philosophy of keeping the funds for retirement purposes only.

PROPOSAL #18: Increase the limit on hours that may be worked after retirement by MPEA and the Department of Administration

Speaking in support of Proposal #18: Tom Schneider, MPEA and Tom Dolan, Department of Administration

Sen. Bartlett said that 960 hours, as proposed, is very close to halftime employment, and indicated that she did not agree with a proposal that would increase the allowable work time by that amount.

PROPOSAL #19: Allow a retiree to receive GABA if the retiree returns to employment under another Title 19 retirement system by MPEA

Speaking in support of Proposal #19: Tom Schneider, MPEA; Tom Bilodeau, MEA-MFT; and Jerry Williams, MPPA

Sen. Bartlett asked why the law is the way it is now. Mr. O'Connor said he couldn't comment because, although it is currently on hold, the issue is in litigation.

Rep. Brainard asked if there is an actuarial cost involved in this situation. Mr. O'Connor said there would be a minor effect because so few people are involved. Mr. Schneider said that he had been told by an actuary that the when the total cost of the GABA was calculated, the amount saved by denying GABA to a few who might return to work under another system was not added back in.

Rep. Brainard said that the proponents of some of the proposals that had been presented should remember that a 20-year retirement system, such as MPORS, is a sticking point with many people because they perceive it as allowing public servants a double career and double dipping. He said that, undoubtedly, a 20-year retirement is very appropriate for some people, but not for all public servants.

PROPOSAL #20: Amendment of DC plan to comply with IRS qualifications by the PERB

Speaking in support of Proposal #20: Mike O'Connor, PERB

PROPOSAL #21: PERS housekeeping bill by PERB

The individual items needing clarification were presented by Mike O'Connor, PERB

PROPOSAL #22: TRS housekeeping bill by TRS Board

The issues needing clarification in statute were presented by David Senn, TRS

Sen. Bartlett said the premise for the 4-year terms for a governing board is that a new governor would have the opportunity of appointing the majority of the board during that administration. She recommended examining the statutes in regard to increasing the term of service from four to five years.

PROPOSAL #23: Amending the school district retirement fund by MEA-MFT

Speaking in support of Proposal #23: Tom Bilodeau, MEA-MFT

PROPOSAL #24: Amending the existing school district voluntary CALF by MEA-MFT, MSBA

Speaking in support of Proposal #24: Tom Bilodeau, MEA-MFT

PROPOSAL #25: Changing the date of GABA eligibility

Ms. Heffelfinger presented Proposal #25 for Linda Anderson, and David Senn, TRS, said the TRS does not support the proposal because of administrative difficulties. Mr. Senn said the proposal would be problematic with a small TRS administrative staff because the date would change to the busiest time of the year for the staff. He said additional personnel would have to be hired to deal with the extra workload. A more workable solution would be to use 2.5 years (instead of 3 years) as of January 1.

PROPOSAL #26: Striking age requirement in HPORS

Speaking in support of Proposal #26: Andrea Homier for Mark Taylor, representing Association of Montana Highway Patrolmen

Sen. Bartlett asked why there is an age requirement. Mr. O'Connor said it was implemented in 1985 to balance the difference between the two tiers when the benefit structure was enhanced.

PROPOSAL #27: PERB recommendations on 25-cent vehicle registration fees to fund supplemental retirement benefits for certain HPORS retirees

Speaking in support of Proposal #27: Mike O'Connor, PERB

Sen. Bartlett asked if these funds are maintained in a separate account. Mr. O'Connor said the money goes into the pooled trust fund and is used to help pay off unfunded liability.

PUBLIC COMMENT

**Exhibit #6: Copy of Fast Letter 00-44 from VA**

Daniel Cochrane, Commander, DAV, Lewis and Clark Chapter No. 3, presented Exhibit #6, saying that he wished to draw the Committee's attention to a situation in which the VA can release mental health information to law enforcement authorities. He said once the determination of incompetence is made by a VA clerk, that designation has, in reality, the force of a court's determination.

Mike Hampson, President, Vietnam Veterans of America (VVA), Chapter No. 626, and President, State Council, VVA, explained that once deemed "incompetent" by someone in the VA, the designation can prevent a veteran from ever getting a gun permit, or even a driver's license. But, he said a 10% PTSD rating can equate to an "incompetency" judgment for VA purposes but may not necessarily equate to "incompetency" for law enforcement and other purposes.

Debra Daggett, Vice-President, State Council for VVA, said the VA doesn't allow for judicial review of its judgments. Outside of the VA, the terminology has a different meaning but others may assume that the VA designations followed a court hearing when they don't.

Ms. Heffelfinger said that the Veterans' Affairs Subcommittee will discuss its findings and recommendations at the September meeting and that she will inform Sen. Hargrove of this public testimony.

### **OTHER BUSINESS**

#### **Exhibit #7: September meetings draft agenda**

#### **Exhibit #8: LC 2222**

Ms. Heffelfinger handed out Exhibit #7, a draft agenda for the September meeting. This would likely need to be a 3-day meeting to complete subcommittee and full committee business. Rep. Brainard said the possibility of a 3-day meeting would be considered and its necessity would be determined in a timely manner.

Ms Heffelfinger handed out Exhibit #8, LC 2222, and summarized its changes to the laws governing interim committees.

Sen. Roush asked if LC 2222 limited the number of non-legislative members appointed to a subcommittee. Ms. Heffelfinger said that was left to the discretion of the committee's presiding officer. Rep. Brainard suggested keeping original language in section 2 (7) in order to ensure a check and balance system.

Sen. Bartlett said she disliked striking "Public Employees Retirement Systems" from the committee's name. She said an alternative would be to add language to the section on page 8 to specify that this committee must monitor retirement systems and consider retirement proposals.

Rep. Brainard said he believes that even if the words "Public Employees Retirement Systems" is stricken from the Committee's name, it should be made clear that this committee's responsibilities include retirement issues.

Rep. Brainard said that he has instructed Ms. Heffelfinger to contact people from Lincoln, Beaverhead, and Missoula Counties to inform them of the information hearing on Wednesday, September 13. He said that each group will be asked to present an outline of how the situation developed and, in the afternoon, a round table discussion will occur.

#### **ADJOURNMENT**

The meeting was adjourned at 4:40 p.m.

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